

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

DR. JAMES ERIC McDONOUGH,

CASE NO.: 16-12412 CA (13)

Plaintiff,

vs.

CITY OF HOMESTEAD,

Defendant.

ORDER ON PLAINTIFF'S CHAPTER 119 COMPLAINT

THIS MATTER came before the Court on September 12, 2016 pursuant to section 119.11(1), Florida Statutes to consider the Plaintiff's complaint. The Court, having reviewed the pleadings, having heard argument from counsel, having reviewed the responsive records in camera, and being otherwise duly advised in the premises, it is hereby

ORDERED and ADJUDGED as follows:

1. Plaintiff's claim for relief is DENIED in part and GRANTED in part.
2. In response to Plaintiff's public records request, the City asserted that the only responsive records in its possession were exempt and confidential as follows:

	Date	Type:	From:	To:	Claimed Exemption(s)
1	7/7/15	E-mail	Kim Stewart	Eric Stettin Priscilla Thompson	§ 768.28(16)(b), Fla. Stat. § 624.311(2), Fla. Stat.
2	7/8/15	E-mail	Eric Stettin	Vivian Manach Priscilla Thompson Richard Weiss	§ 768.28(16)(b), Fla. Stat. § 119.071(1)(d)(1), Fla. Stat.
3	7/8/15	E-mail	Vivian Manach	George Gretsas	§ 768.28(16)(b), Fla. Stat. § 119.071(1)(d)(1), Fla. Stat.
4	7/9/15	E-mail	George Gretsas	Vivian Manach Priscilla Thompson Eric Stettin Richard Weiss City Council Members	§ 768.28(16)(b), Fla. Stat.
5	7/8/15	Letter	Eric Stettin	Officer Alejandro Murguido	§ 119.071(1)(d)(1), Fla. Stat. § 768.28(16)(b), Fla. Stat. § 90.502, Fla. Stat.

3. Plaintiff claimed that the City was not entitled to claim the listed exemptions and further claimed that the City had additional non-exempt, responsive records in its possession that should have been produced to Plaintiff.

4. The Court finds that Plaintiff's claim that the City violated Chapter 119 by failing to produce alleged additional non-exempt, responsive records in its possession is DENIED. Plaintiff's request for attorneys' fees based on this claim is, therefore, likewise DENIED.

5. The Court further finds that, with respect to Records 1 and 2 listed above, the City properly claimed the listed exemptions. As such, Plaintiff's claim that the City violated Chapter 119 by failing to produce Records 1 and 2 is DENIED.

6. The Court recognizes, that with respect to Record 5, Plaintiff acknowledged in open Court that the City properly withheld Record 5 as confidential, privileged, and exempt.

7. The Court further finds that, with respect to Records 3 and 4 listed above, the Records are responsive to Plaintiff's public records request and are not confidential and exempt pursuant to the Risk Management Claims File exemption set forth in section 768.28(16)(b), Florida Statutes. As such, the City shall produce Records 3 and 4 to Plaintiff.

8. The Court reserves jurisdiction to consider entitlement and, if necessary, the amount of reasonable attorneys' fees.

9. The effect of this Order is stayed for fifteen (15) days.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 10/10/16.


THOMAS J. REBULL
CIRCUIT JUDGE

No Further Judicial Action Required on THIS MOTION

CLERK TO RECLOSE CASE IF POST JUDGMENT

The parties served with this Order are indicated in the accompanying 11th Circuit email confirmation which includes all emails provided by the submitter. The movant shall IMMEDIATELY serve a true and correct copy of this Order, by mail, facsimile, email or hand-delivery, to all parties/counsel of record for whom service is not indicated by the accompanying 11th Circuit confirmation, and file proof of service with the Clerk of Court.

Signed original order sent electronically to the Clerk of Courts for filing in the Court file.

Conformed copies to:
All counsel of record